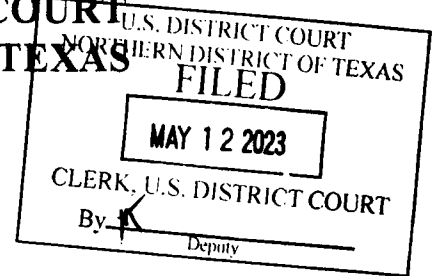


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS



MOTION UNDER 28 U.S.C. SECTION 2255,
TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A
PERSON IN FEDERAL CUSTODY

UNITED STATES OF AMERICA

vs.

Ricardo Rodriguez
MOVANT (full name of movant)

U.S.P. - Pollock - B.D.P.
PLACE OF CONFINEMENT

64929-509
PRISONER ID NUMBER

2:21-cr-00085-BR-1
CRIMINAL CASE NUMBER

(If a movant has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion in the federal court which entered the judgment.)

INSTRUCTIONS - READ CAREFULLY

1. This motion must be legibly handwritten or typewritten, and signed by the movant under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
2. Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities needs to be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
3. Upon receipt, your motion will be filed if it is in proper order. No fee is required with this motion.

4. If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed *in forma pauperis*, in which event you must execute the declaration provided with this motion, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed *in forma pauperis*, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
5. Only judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions either in the same district or in different districts, you must file separate motions as to each such judgment.
6. Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the motion you file seeking relief from any judgment of conviction.
7. When the motion is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court for the Northern District of Texas at the appropriate divisional office whose address is:

Abilene Division

341 Pine St, Rm 2008
Abilene, TX 79601

Amarillo Division

205 SE 5th Ave, Rm 133
Amarillo, TX 79101

Dallas Division

1100 Commerce St, Rm 1452
Dallas, TX 75242

Fort Worth Division

501 W 10th St, Rm 310
Fort Worth, TX 76102

Lubbock Division

1205 Texas Ave, Rm 209
Lubbock, TX 79401

San Angelo Division

33 E Twohig Ave, Rm 202
San Angelo, TX 76903

Wichita Falls Division

501 W 10th St, Rm 310
Fort Worth, TX 76102

8. Motions which do not conform to these instructions will be returned with a notation as to the deficiency.

MOTION

1. Name and location of court that entered the judgment of conviction you are challenging:

United States District Court, For Northern District of Texas ... Amarillo Division

2. Date of the judgment of conviction:

April 5TH, 2022

3. Length of sentence: 240 months (20 years).

4. Nature of offense involved (all counts):

#1. Conspiracy to distribute, Poss. with Intent to distribute 500 Grams or More, of Methamphetamine. #2. Poss. with Intent to distribute Methamphetamine and Aiding and Abetting.

5. (a) What was your plea? (Check one)

Not guilty ☐ Guilty ☒ Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or or indictment, what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☐Judge Only ☐

7. Did you testify at the trial? (Check one)

Yes ☐No ☒

8. Did you appeal from the judgment of conviction? (Check one)

Yes ☐No ☒

9. If you did appeal, answer the following:

Name of Court: _____

Result: _____

Date of result: _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "Yes" give the following information:

Name of Court: _____

Nature of proceeding: _____

Grounds raised: _____

Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

Result: _____

Date of result: _____

As to any *second* petition, application or motion, give the same information:

Name of Court: _____

Nature of proceeding: _____

Grounds raised: _____

Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

Result: _____

Date of result: _____

As to any *third* petition, application or motion, give the same information:

Name of Court: _____

Nature of proceeding: _____

Grounds raised: _____

Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐

No ☒

Result: _____

Date of result: _____

Did you appeal to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

First petition, etc.

Yes ☐

No ☒

Second petition, etc.

Yes ☐

No ☒

Third petition, etc.

Yes ☐

No ☒

If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed. However, you should raise in this petition all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

DO NOT CHECK ANY OF THESE LISTED GROUNDS. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) ☒ Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) ☒ Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) ☒ Denial of effective assistance of counsel.
- (j) Denial of right to appeal.

See Attached
for facts. → Pg. 11

A. Ground One:

Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.

Supporting FACTS (tell your story briefly without citing cases or law):

Please, view attached or additional for briefing on Ground #1.
→ see Attached.

B. Ground Two:

Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.

Supporting FACTS (tell your story briefly without citing cases or law):

Please, view attached or additional for briefing on Ground #2.
→ see Attached.

C. Ground Three:

Denial of Effective assistance of Counsel.

Supporting FACTS (tell your story briefly without citing cases or law):

Please, view attached or additional for briefing on Ground #3.
→ see Attached.

D. Ground Four:

Prosecutorial Misconduct

Supporting FACTS (tell your story briefly without citing cases or law):

The Government withheld Brady Material in -
which it shows an unconstitutional search and seizure
on 8/22/21 in which evidence was illegally obtained.
See Attached →

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

Failure of my counsel to do the necessary research to
present a defense and argument... The movant not having
an understanding of certain legal requirements to prepare a
Defense.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing:

ERIC COATS
500 S. TAYLOR ST. SUITE 110, LB 214
AMARILLO, TX 79101

(b) At arraignment and plea:

SAME

(c) At trial:

SAME

(d) At sentencing:

SAME

(e) On appeal

N/A

(f) In any post-conviction proceeding:

N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding:

N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒


(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) And give date and length of sentence to be served in the future:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, movant prays that the Court grant petitioner relief to which he may be entitled in this proceeding.


Signature

Firm Name (if any)

P.O. Box 2099

Address


Pollock, LA 71467

City, State & Zip Code

Telephone (including area code)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on 05-03-23 (date).


Signature of Movant

✓
Attached: pg 7-8; Supportive Arguments.

Ground #1.

On August 19th, 2021, the Potter County Sheriff's tried to do a traffic stop on a Toyota RAV4... registration # 8SN1540Y. At such time, a second vehicle intervened with the traffic stop and struck the Deputy's vehicle... This was a white SUV bearing Florida license plate's QCQY38; registered to Mariya Deraei."

A request was made to "ping" Mrs. Deraei's phone to apprehend Mrs. Deraei, for either questioning or a seizure for assaults on the Deputies.

On 8/19/21 Deputies never made any traffic stop on either of the vehicles, nor obtained evidence or information in regards of who was driving any of the (2) vehicles; or that drugs were involved.

On 8/20/21 Mrs. Deraei's rented Mazda CX3 SUV was stopped based on the phone ping. Immediately, once the occupants of the vehicle were removed, without a consent from the renter; or an open-air dog (K-9) sniff, or probable cause from the previous day, or the present day (8/20/21). to search for anything else, beside Mrs. Deraei.

There's a 13½ minute video on YouTube that shows the entire search, in which the Texas Department of Public Safety Troopers, along with Gray County and Wheeler County stopped the Rental (Mazda CX3).

While doing a safety sweep of the vehicle the Deputy's search a cardboard Box, without a warrant and made the discovery of the evidence. Exhibit #A: Video of Stop and search; Exhibit #B. Federal Complaint (9-15-21) James Davis Jr. SA, HHS. This clearly shows a "Fishing Expedition began"
"Video Title or Name: -3 drug traffickers sentence to 48 years, after striking police vehicle."

Ground #2.

On 8/20/21 this petitioner was arrested on evidence that was obtained through a unconstitutional intrusion of property. The evidence was taken by means of an illegal search; therefore, it is an unlawful arrest. On 8/20/21 Deputies could not say who a cardboard Box containing narcotics belong to... and without the search or facts to support the guilt of, the property rightfully would be held against the owner or renter of such property without any other corroborating fact to support or suggest other.

At the time of a traffic stop for the where-ab-
 out for Mrs. Monique Baran, deputies of all
 law enforcement involved held no facts other
 than: "Mrs. Baran's SUV struck a law enfor-
 cement's vehicle." #2. Mrs. Baran could be placed in
 Texas (by way of phone ping). #3. Mrs. Baran, had
 rented a Mazda CXR. #4. Mrs. Baran, by way
 of phone ping was travelling east on Interstate
 40; away from Amarillo, Tx.

The focus of this, there were no factors present
 by way of manner of others by Deputy's or discre-
 tion to have done any more than arrest Mrs.
 Baran, and a quick field investigation of the
 passengers. The seizure came by way of unlaw-
 ful and violations under Constitutional Law(s).

Mrs. Rodriguez was a passenger in the back seat
 of the vehicle. There were no facts present to have
 placed this petitioner at the scene of a post-crime
 area.

Ground #3.

Counsel for the record was made aware of these
 issues, to get the video and asked by the

petitioner, of the search & seizure's as well to challenge the credibility of the evidence, and the probable cause.

Counsel failed to due the research of the stop of the vehicle and the probable cause to the search. The only nexus that existed to the assault was Mrs. Derran, not the Maxx CRX, authorities, could not determine what could or would be in this "new vehicle".

By way of Exhibit *A, if counsel had request dash cam. footage, it shows an illegal search and seizure that is unconstitutional and unlawful.

Counsel's refusal to file a motion to challenge these issues. Exhibit *A supports this claim.

As well, the failure to present this exculpatory evidence to the Court.

Ground #4.

Prosecutor misconduct in this manner, was clear when the Government failed to disclose the video in which the unconstitutional search took place. This

video shows that each defendant was removed from the vehicle, but never read any Miranda rights, or told officers needed to search for evidence other than a nexus to the alleged crime.

But on June 10th, 2022 the Government after the conviction released the Footage to YOUTUBE: under -3 Drug Traffickers Sentence to 48 years After Striking Police Vehicle.

This was done after the April 5th, 2022 sentencing of this petitioner.

Brief overall Summary:

On 8/20/21 deputies working an investigation of the alleged assault of officers the previous day, pulled over a vehicle to where they felt at least one of the suspects were in. That needed to be questioned or arrested... once it was determined of the suspect's identity. (which was a Female), "there was only one female" in the vehicle and referred to the Female suspect

Deputies weren't armed with a search warrant for any occasion and they did not hold any information of value besides a Female suspect was wanted: "No information lived at the time of the stop to

perform an all out cavity search of personal property... But Deputies from "Craw and Wheeler County Sheriffs Department" went beyond the safety sweep for other human bodies.

The traffic stop was for Mrs. Monique Dera, the renter and driver.

By means counsel failed to challenge these effects, being no law can be broken to justify any legal actions; therefore without the search that lacked probable cause, the arrest is unlawful... any and all statements, evidence came after the arrest.

The Government are officers of the Court, it is their duty as well their attorney for a defendant to ensure a defendant Constitutional Rights are upheld.

United States District Court
Northern District of Texas

Amarillo Division

March 7, 2023

Ricardo Rodriguez #64929-509
BOP Pollock USP
PO Box 2099
Pollock, LA 71467

Re: Your correspondence received in the U.S. District Clerk's Office on 3/6/2023
Case No./Style: 2:21-cr-00085-Z-BR-1

Included with this letter is a "Motion To Vacate, Set Aside, Or Correct Sentence, 28 U.S.C. § 2255" blank form.

Copies of docket sheets and/or documents require prepayment of the copy expense, currently \$0.50 per page.

Local Civil Rules @36 pages = \$18

Sincerely,

Deputy Clerk - NT

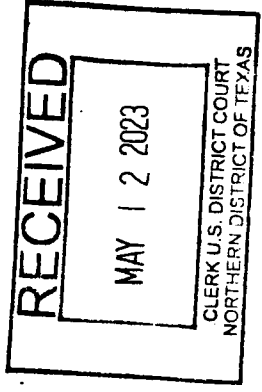
RICARDO RODRIGUEZ

64929-509

UNITED STATES PENITENTIARY

P.O. BOX 2099

POLLOCK, LA 71467



LEGAL

MAIL

CLERK OF THE UNITED
COURT FOR THE
OF TEXAS

AMAILLO DIVISION

205 SE 5th

AMAILLO

